

STATE OF IOWA
PROPERTY ASSESSMENT APPEAL BOARD

Terry Krogman,

Petitioner-Appellant,

v.

Clinton County Board of Review,

Respondent-Appellee.

ORDER

**Docket No. 10-23-0040
Parcel No. 10-2050-0000**

On June 27, 2011, the above captioned appeal came on for consideration before the Property Assessment Appeal Board. The appeal was conducted under Iowa Code section 441.37A(2) and Iowa Administrative Code rules 701-71.21(1) et al. The Appellant Terry Krogman was self-represented and requested a written consideration. The Clinton County Board of Review designated County Attorney Michael Wolf as its legal representative. The Appeal Board having reviewed the record, and being fully advised, finds:

Findings of Fact

Terry Krogman is the owner of a commercially classified, warehouse located at 1919 S Washington Boulevard, Camanche, Iowa. The property is a 4260 square-foot, one-story metal warehouse built in 2004. The interior is generally unfinished with a concrete floor and exposed metal walls and ceiling. There is a fifteen-foot by thirty-two-foot finished office. Other than dimensions, there is no information on the property-record card about this finished office space. An appraisal

submitted by the Board of Review indicates the interior of the office is reportedly¹ finished with quarry tile floors, drywall walls/ceiling, a kitchenette, and a bathroom. The site is 1.00 acre.

Krogman protested to the Clinton County Board of Review regarding the January 1, 2010, assessment of \$94,500, allocated as \$23,800 in land value and \$70,700 in improvement value. The January 1, 2010, assessment of Krogman's property did not change from the prior year's assessment.

Krogman's petition to the Board of Review was on the following grounds: 1) that the property is assessed for more than the value authorized by law under Iowa Code section 441.37(1)(b); 2) that there is an error in the assessment under section 441.37(1)(c); 3) that there is fraud in the assessment under section 441.37(1)(d); and, 4) that there has been a change in value since the last assessment under sections 441.37(1) and 441.35(3). On one area of the protest Krogman asserted the correct total value is \$71,000, yet in another area he indicates the "true" value is \$65,000. He claims the assessor's office assessed the building before it was completed and that the assessor inflated the price.

After consideration of all the data, the Board of Review denied the protest stating that the "property owner failed to prove by, documented appraisal techniques, there is a downward trend in the local real estate market."

Krogman appealed and reasserted all of his claims to this Board.

Because there was no change in value from the previous year, the only ground we will consider on appeal is whether there has been a change in value since the last reassessment, as it is the only ground appropriately pled in an "interim year" when the assessor has not changed the assessment.

It is not clear what evidence was submitted by Krogman at time of hearing, and what documents in the certified record were generated by the assessor's office for the Board of Review to consider. It appears that Krogman offered a single page memo outlining the three approaches to value

¹ The appraiser was not allowed access into the office area. He reports that he relied upon information obtained from the Clinton County Assessors Office. However, this information was not on the property-record card provided.

(market, cost, and income), as well as a two-page print-out listing from Craigslist, a free on-line classifieds service.

The memo indicates a market approach to value as follows:

\$48,000 cost of un-finished interior pole building

\$25,000 added "if" the interior was finished and NOT exposed

\$73,000 cost of a complete finished interior

We note that this is more akin to a cost analysis than a market analysis which would compare the subject property and improvements to sales of other similar properties.

The memo indicates a cost approach as follows:

New building built today 2010 by Wick Buildings would be \$51,531 and the price I paid in 2004 was \$48,000.

We do not consider this analysis to be a fully developed cost approach as depreciation, land, and site improvements are not considered.

Krogman offers a second cost approach in exhibits received by this Board on May 11, 2001.

The cost analysis in Exhibit B is in response to the Board of Review's Exhibit 5 which values the total replacement cost of the subject property improvements. Exhibit 5 develops the cost approach for the subject improvements using the "Iowa Manual Page 5-76" concluding a replacement cost new of \$79,954.80, and using an "alternate method, Iowa Manual Pages 5-78" concluding a replacement cost new of \$75,701. The replacement cost conclusions are for the improvements only. This exhibit also includes three 2004 land sales ranging from \$1.88 to \$3.01 per square foot compared to the subject's purchase price per square foot of \$0.50 in 2002.

Krogman's second cost analysis is more developed than the first and breaks out building components such as overhead doors, heaters, electrical, and office space. We note the concrete slab foundation, which was poured in 1970, is not accounted for by Krogman in his cost analysis. He

indicates the cost of this foundation was included in the price of the lot when he purchased it in 2002.

Krogman concludes a cost new of \$49,211. He does not provide sources for the cost estimates.

The income approach is developed as follows:

\$94,000 Assessed	\$71,000 Actual Cost
\$600 Mortgage Month	\$440 Mortgage Month
\$200 Insurance Month	\$160 Insurance Month
\$280 Property Tax Month	\$100 Property Tax Month
\$1080 Total Monthly Bills	\$700 Total Monthly Bills

I could only rent the building for \$800-\$1000 (can't even get \$700) per month, so there is no way I could make any income out of it. The property next to me is double the size and the building is almost twice the size...and getting \$1200 month rent until Reckmonds transmission went out of business. Now (it) can't even be rented out for \$1000 and they are asking \$800 per month for rent.

Again, we note that this is not a fully developed income approach and appears to be based on speculation of expenses rather than actual or market expenses.

The Board of Review provided an appraisal completed by Kevin Pollard of Roy Fisher Inc., Davenport, Iowa. Pollard developed an opinion of value as of January 1, 2010, considering the cost and market approaches to value. He did not develop the income approach.

Pollard considers a replacement cost new (RCN) of the improvements of \$86,176, using the Iowa Appraisal Manual. He adjusts the RCN downward 15% for physical depreciation and an additionally adjusts the RCN downward 5% for external obsolescence due to the "somewhat weak" commercial real estate market in Camanache. He concludes a total cost new less depreciation of \$91,500 including land value and site improvements.

Pollard used four sales in his market value approach. The sales sold between September 2005 to June 2010 and range in unadjusted sale prices from \$132,000 to \$150,000. The unadjusted price per square foot ranges from \$20.31 to \$36.06. After adjustments, Pollard concludes a price per square foot of \$21.07 to \$22.72, with the upper end of this range being the most dated sale. Pollard considers

the three most recent sales which range from \$21.07 to \$21.22 price per square foot. He concludes a value of \$90,000, by the market approach to value.

Pollard considers both the cost and market approaches however, gives most consideration to the market approach and concludes a final opinion of value, as of January 1, 2010, of \$90,000.

The Board of Review submitted three comparables in Exhibit 6. The three properties sold between September 2005 and June 2010. The unadjusted sales prices range from \$132,000 to \$150,000. The unadjusted sales-price-per-square-foot of building area ranges from \$20.31 to \$36.06. The Board of Review provides some narrative description of each comparable in Exhibit 10 (Executive Summary) and concludes a value of at least \$25 per square foot or a value of \$106,500 for the land and building based upon these three comparable sales. While the Board of Review provides sales and narrative analysis to support its position, it does not make any adjustments for differences or provide an adjusted range of value. Therefore we give this analysis less consideration.

Reviewing all the evidence, we find the Pollard appraisal is the best evidence of the fair market value of the subject property as of January 1, 2010; however, evidence was lacking to prove the value of the property as of January 1, 2009. Both values are necessary to establish a change in value since the last assessment.

Based upon the foregoing, we find insufficient evidence has been presented to support a claim of downward change in value.

Conclusions of Law

The Appeal Board applied the following law.

The Appeal Board has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A (2009). This Board is an agency and the provisions of the Administrative Procedure Act apply to it. Iowa Code § 17A.2(1). This appeal is a contested case. § 441.37A(1)(b). The Appeal

Board determines anew all questions arising before the Board of Review related to the liability of the property to assessment or the assessed amount. § 441.37A(3)(a). The Appeal Board considers only those grounds presented to or considered by the Board of Review. § 441.37A(1)(b). But new or additional evidence may be introduced. *Id.* The Appeal Board considers the record as a whole and all of the evidence regardless of who introduced it. § 441.37A(3)(a); *see also Hy-vee, Inc. v. Employment Appeal Bd.*, 710 N.W.2d 1, 3 (Iowa 2005). There is no presumption that the assessed value is correct. § 441.37A(3)(a).

In Iowa, property is to be valued at its actual value. Iowa Code § 441.21(1)(a). Actual value is the property's fair and reasonable market value. *Id.* "Market value" essentially is defined as the value established in an arm's-length sale of the property. § 441.21(1)(b). Sale prices of the property or comparable properties in normal transactions are to be considered in arriving at market value. *Id.* If sales are not available, "other factors" may be considered in arriving at market value. § 441.21(2). The assessed value of the property "shall be one hundred percent of its actual value." § 441.21(1)(a).

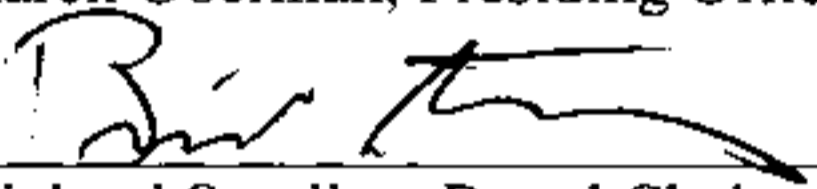
In a non-reassessment or "interim" year, when the value of the property has not changed, a taxpayer may challenge its assessment on the basis that there has been a downward trend in value. *Eagle Food Ctrs., Inc. v. Bd. of Review of the City of Davenport*, 497 N.W.2d 860, 862 (Iowa 1993). The last unnumbered paragraph of Iowa Code section 441.37(1) and its reference to section 441.35(3) give rise to the claim of downward trend in value. For a taxpayer to be successful in its claim of change in value, the taxpayer must show a change in value from one year to the next; the beginning and final valuation. *Equitable Life Ins. Co. of Iowa v. Bd. of Review of the City of Des Moines*, 252 N.W.2d 449, 450 (Iowa 1997). The assessed value cannot be used for this purpose. *Id.* Essentially, it is not enough for a taxpayer to prove the last regular assessment was wrong; such a showing would be sufficient only in a year of regular assessment. *Id.* at 451. Krogman did not provide sufficient evidence supporting the January 1, 2009, market value. Although the Board of Review established the

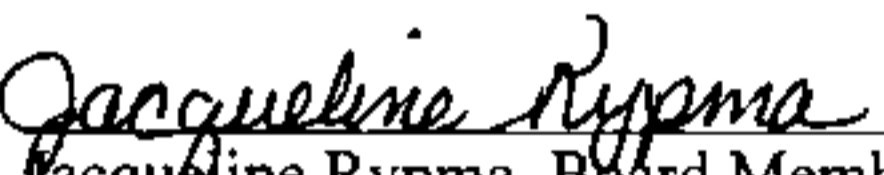
market value of the subject as of January 1, 2010, there is no evidence to establish the January 1, 2009, market value. Both values are required to support a claim of change in value.

THE APPEAL BOARD ORDERS the assessment of Terry Krogman's property located at 1919 S Washington Boulevard, Camanche, Iowa, of \$94,500 as of January 1, 2010, set by the Clinton County Board of Review, is affirmed.

Dated this 30 day of July, 2011


Karen Oberman, Presiding Officer


Richard Stradley, Board Chair


Jacqueline Rypma, Board Member

Cc:

Terry Krogman
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Camanche, Iowa 52730
APPELLANT

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Certificate of Service	
The undersigned certifies that the foregoing instrument was served upon all parties to the above cause & to each of the attorney(s) of record herein at their respective addresses disclosed on the pleadings on <u>7-20</u> , 2011	
By:	<input checked="" type="checkbox"/> U.S. Mail <input type="checkbox"/> FAX
	<input type="checkbox"/> Hand Delivered <input type="checkbox"/> Overnight Courier
	<input type="checkbox"/> Certified Mail <input type="checkbox"/> Other
Signature	